

**JOINT STANDING COMMITTEE ON
DELEGATED LEGISLATION**

**INQUIRY INTO A SYSTEMIC ISSUE ARISING OUT OF
NINE COURT AND TRIBUNAL FEE INSTRUMENTS**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 7 MAY 2014**

Members

Mr P. Abetz (Chair)
Hon Robin Chapple (Deputy Chair)
Mr G.M. Castrilli
Hon Peter Katsambanis
Hon Mark Lewis
Ms S.F. McGurk
Mr P. Papalia
Hon Ljiljanna Ravlich

Hearing commenced at 10.07 am**Mr MARK HAINSWORTH****Manager Advisory Services, Department of the Attorney General, sworn and examined:****Mrs SU OWEN****Executive Manager, District Court of WA, sworn and examined:****Ms JOANNE STAMPALIA****Director Strategic Business Development, Department of the Attorney General, sworn and examined:**

The CHAIR: Thank you very much for your presence. On behalf of the committee, I welcome you to the meeting. Before we begin, you need to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

The CHAIR: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing for the record. Please be aware of the microphones. Try to talk into them and ensure that you do not cover them with papers or make too much noise near them.

I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

[10.10 am]

I will invite you to make an opening statement, but before you speak I will tell you what sparked this particular inquiry. In the past few months, nine explanatory memoranda were submitted to the committee about various court and tribunal fee instruments that increased fees by 13.6 per cent. Justification for the increase was a decline in the number of lodgements, particularly corporate lodgements, over the past three years. Leaving aside the issue as to whether or not there has actually been a decline in lodgements, increasing fees because of a decline in lodgements is, in the committee's view, neither an appropriate justification for increasing fees nor an appropriate costing methodology. Fees must be based on the actual cost of providing itemised services using a prescriptive costing method, which the Department of the Attorney General lacks. Over the past 17 years, former delegated legislation committees have reported to Parliament their legal position with respect to imposing fees. Today, given the continuing impasse over the legal position, the committee expects to hear from the personnel responsible for calculating the proposed fees. At a later stage, the committee expects to be provided with detailed documentation on how the proposed fees were calculated. This information should be provided on an individual fee basis similar to, for example, how Western Australia Police itemises its fee increases. We refer you to report 68 on the committee's webpage for that purpose.

I now invite you to make an opening statement before giving us the detailed presentation you gave Treasury officers.

Mr Hainsworth: Thank you, Mr Chairman. The department welcomes the opportunity to present the model as we presented it to Department of Treasury officials. From our perspective the model is consistent with Treasury guidelines with respect to the costing of services. Secondly, we have had legal advice from the State Solicitor's Office that the approach to the modelling of costs and the setting of fees is legally valid. Thirdly, in response to the committee's recent correspondence with the Treasurer, Treasury officers have looked at our costing model and independently verified that it is fit for purpose and meets its guidelines. Su Owen, who will do the presentation to the committee, will point out that the data used in the model is from the department's accounting system, which is audited by the Office of the Auditor General. In the past two years, auditing of our accounts has shown that the department has best practice with respect to managing its accounts. Finally, the data used in the framework for developing our costings is the same data that is used in the "Report on Government Services" that is compiled by the Productivity Commission. We have made those points to the committee before, but we would like to reiterate them. On that point, I will hand over to Mrs Owen to present the model.

Mrs Owen: Good morning. My role here is to take you through the court and tribunal services fee review process and the model. To do that, I will introduce the structure of both the department and the court and tribunal services because that is important to understand from the viewpoint of the allocation of overheads. We will look at the principles that are currently built in to the fees and charges review. There is a slide on the fees as per legislation. I know that you are aware of those, but it is just for it to be presented as a complete picture. We will look at the cost recovery model, the process we go through and the final step in the process, which is the revenue forecasting. Following that, I have an Excel spreadsheet model to show you the details.

The Department of the Attorney General is made up of a number of divisions. They are colour-coded for ease of understanding. The green is fee generating jurisdictions and the blue, for us, is the costs that are allocated as overheads. I will talk about the court and tribunal services division of the Department of the Attorney General. The court and tribunal services structure is colour-coded the same way through. The green is the fee generating jurisdictions and the blue are those areas where we allocate the overheads as applicable. The model that I will be showing you today is the fee review for the District Court.

I refer to the principles that over time have been built into the fees and charges review. Cabinet approved key principles, including relative parity. Relative parity maintains the hierarchy of the courts. It means that the fees will be more in each hierarchy of the courts. A fee in the District Court, which is the middle court, will be more expensive than the fee in the Magistrates Court and less expensive than a fee in the Supreme Court. That is what I mean when I say relative parity when we set the fees.

Mr P. PAPALIA: Do you try to maintain parity with interstate jurisdictions?

Mrs Owen: Reviews on interstate comparisons have been done. That is contained in the "Report on Governments Services" each year, maybe not so much necessarily on fees, but it is not part of this process.

In the early 2000s cabinet decided that corporate entities should be charged higher rates over the rates for individuals. The judiciary has great interest in ensuring that the fees that are set ensure the principle of access to justice. Our legislation does allow for some exemptions. One of those is that all costs associated—There are no fees for criminal proceedings. The Civil Judgments Enforcement Act proceedings are exempted because it has its own fee mechanisms in the act. The prohibited behaviour orders proceedings are also exempted. You will know from the legislation that it is particularly in the District Court that we have general division fees. They are all civil by the nature

of the exemption of the criminal, and we also have transcript and video link fees. These can be charged at either a civil or criminal level.

The background of our cost recovery model is that we received advice from Treasury that it complies with government policy. That government policy is stated in the “Costing and Pricing, Government Services: Guidelines for use by agencies in the Western Australian Public Sector”. As well as the obvious direct costs that everybody can understand, the guidelines require corporate overheads and central budget items, such as security, to be included in the full costing. I will show you the model that does that. Our cost recovery calculations are based on the last full financial year data that is available at the time of the calculations. To meet the budget estimates process and the approvals process—and working backwards—we do the fees and charges review in October and November each year. For example, the 2014–15 review was started in October 2013 and the costs used were from 1 July 2012 to 30 June 2013. That is just to explain that a full year’s worth is used.

Hon LJILJANNA RAVLICH: Can you advise the committee when the costing model was first developed?

Mrs Owen: I cannot answer that question, because I started in the finance role only two and a half years ago. The model existed then. What I can say is that in that time we have looked at—I have learnt through my use and understanding of the model that improvements have been made, but there has been no change to the structure of the model since I have been there.

Hon LJILJANNA RAVLICH: Mr Chairman, through you, I am wondering whether either of the other two witnesses might be able to provide that information.

[10.20 am]

Ms Stampalia: I can. I arrived at court and tribunal services in around 2004. Predominantly, this model commenced in 2006. We had models previously to calculate the costing of fees, but in 2006 we started to pull together more detailed elements of modelling. As Su just mentioned, over time it has become a lot more robust and that is what we see today and that is what you will see Su present.

Hon LJILJANNA RAVLICH: How many times has the model been reviewed since 2006?

Mrs Owen: We undertake an annual fees and charges review. As part of the set up at the beginning of each year, we pick the model up and we look at what is influencing it. You could say that we review this model every year.

Hon LJILJANNA RAVLICH: You look at the fees and charges; do you look at the structure of the model, so to speak, as a part of that and make appropriate adjustments?

Mrs Owen: The structure of the model—no; assumptions built into the model—yes.

Mr G.M. CASTRILLI: What is the basis of your model? Do you look at the three different levels and at the statewide and regional components of the District Court and all the other levels? Do you base it on individual courts, such as Bunbury or Albany, or do you just lump them all together and base it on the overall total cost of a District Court. How far do you go to form the basis of your model?

Mrs Owen: The basis for the cost recovery component of the model works from the ground up.

Mr G.M. CASTRILLI: From each individual court?

Mrs Owen: Yes, but when we do the overall work, it is at a higher level.

Mr G.M. CASTRILLI: To give you a base costing model, each individual court would have to do its own costings.

Mrs Owen: That is how we collect the costs by individual courts.

Mr G.M. CASTRILLI: They would have overheads, wages and all of that sort of stuff. Is that what you are telling me?

Mrs Owen: No. We allocate overheads as part of the annual fee review model. The cost collection part of the business is done at a court level. Each court has its own performance centre.

Mr G.M. CASTRILLI: There has to be overheads and except for the notional allocations and maybe an allocation it has to be an actual cost derived at an individual court basis location, if you like.

Mrs Owen: Yes, they are.

Mr G.M. CASTRILLI: You would know the actual cost of each individual thing and you allocate a notional over the top.

Mrs Owen: Yes.

Mr G.M. CASTRILLI: Thank you.

Mrs Owen: Just on the last point, the costs and revenue represent the costs within DOTAG, not any external parties. In terms of the overall approach to our review, cost recovery has a number of steps. The costing part of it has four buckets that we look at. We have direct costs, which are costs directly allocated to the business areas, so down to court level in the Magistrates Court area performance centre. It is as per the department's general ledger. All our costs go to the audited financial system. Our direct costs come out of that. Then we have court and corporate overheads. Similarly for those areas of the business, they also have their own performance centres. Their costs are collected in a bucket. After we collect their costs, we look at ways in which we can take those costs and allocate them to court and tribunal services, recognising that the corporate overheads are for the whole of the Department of the Attorney General. The courts have some areas, those blue areas on the second structure slide that I showed you. At the moment we apportion that by an FTE basis. We determine a total cost and we allocate it according to the number of FTEs in each of the fee jurisdiction business areas.

Mr G.M. CASTRILLI: Would the majority of your overheads be allocated or apportioned on an FTE basis? I suppose you would apportion rents per square metre and FTE allocations to each area.

Mrs Owen: Whenever possible and when we are able to specifically identify that, we do. Generally that is the direct costs. We do FTE for corporate and courts overheads because that appears the fairest. There is no way that you could collect all the information at an individual level. Moving to the other costs, the cost of security, for example, can be allocated directly to a court. Court counselling services are provided to courts and to the users of a court. The District Court building has a different type of structure so we allocate those costs there. Wherever we can, we will allocate it according to a percentage allocation, and that percentage allocation is worked out with some logic behind it; but, as with most percentage allocations, there are assumptions behind that and assumptions can be challenged, checked and reviewed.

Mr P. PAPALIA: Is the security to which you referred in excess or in addition to the security provided through the court securities and custodial services contract with the Department of Corrective Services?

Mrs Owen: Those costs are included in our finances as resources received free of charge, and they get allocated across.

Mr P. PAPALIA: Before you said that this costing model includes all the direct costs to the Department of the Attorney General. You calculate those costs, but you do not assume that they are free of charge.

Mrs Owen: That is how they are treated in the financial policy.

Mr P. PAPALIA: Do you charge for the provision of those services in your court costing model?

Mrs Owen: They are an overhead that is allocated.

Mr P. PAPALIA: So they are a part of the overheads.

Mrs Owen: Yes.

Mr P. PAPALIA: You take a component of court security and add it to the overall cost to the individuals that you charge in your costing model —

Mrs Owen: No, we add it to the total costs of the court.

Mr P. PAPALIA: But then you charge people based on that total cost.

Mrs Owen: That is the fee area. Charging people is in the raising of fees area. I am talking about the way that we collect our costs.

Mr P. PAPALIA: Yes, but that determines how you charge people, does it not? Your overall costs, as a component of that, dictates how much you will charge people.

Mrs Owen: It is included in our cost recovery rate, our percentage of cost recovery, yes.

Mr P. PAPALIA: The cost of court security contributes to the overall costs, a component of which goes towards developing a fee that you charge individuals for using the courts.

Mrs Owen: Yes.

Mr P. PAPALIA: Yet there are no costs associated with the provision of those security services in your actual operational costs.

Mrs Owen: Yes, we do. It gets debited into our account as resources received free of charge. It appears as a total cost to the running of the court and tribunal services system.

Mr P. PAPALIA: But it has zero bite.

Mrs Owen: Respectfully, millions of dollars comes into our account. We do not pay cash, but we still account for the expense.

Mr P. PAPALIA: I assume that the Department of Corrective Services gets no money from you for the provision of that service, which is effectively what you said.

Mrs Owen: I take this on advice, but the other side of the accounting equation is revenue received.

Mr P. PAPALIA: It costs the Department of Corrective Services X-million dollars for the provision of court security, but it gets no money from the Department of the Attorney General for the provision of that service.

Mrs Owen: Corporate finance would be able to explain the resources free of charge other side of the journal entry.

Mr P. PAPALIA: It is a cost to corrective services, you get the benefit of the service from corrective services, but it does not appear anywhere.

Mrs Owen: There is another side to a debit entry in bookkeeping. The debit entry is the expense entry. We get the expense. A credit entry is shown on someone's books to say that it received resources free of charge. I suspect that that is the directive of the Department of Corrective Services.

Mr P. PAPALIA: You have the ability to charge people, even if it is only a percentage of the actual cost, for the provision of that service. Corrective services does not have the ability to recoup any of its expenditure on the provision of court security.

Mrs Owen: Are you asking whether we have the provision to or do we?

Mr P. PAPALIA: I know you do. You said it is part of the component of how you develop your fees.

Mrs Owen: It is part of the costs around how we look at cost recovery and what we can charge for as legislated by the fee regulations.

[10.30 am]

Mr P. PAPALIA: I have an interest in this because I am the shadow for corrective services. The Department of Corrective Services pays for your service, which you charge a fee for even if it is only a part of the fee, and it cannot get any money for the service that it is providing your department for free.

Mrs Owen: To my knowledge there is not a fee in the legislation that says that we can charge you this for security.

Mr P. PAPALIA: No, but it is part of your overall overheads and you use the overheads to develop your fee.

Mrs Owen: It is actually a requirement of the financial policy that is put out by Treasury that we include that as a cost of the provision of the service.

Mr P. PAPALIA: I will stop that line of questioning. It is of interest, but it is not really that big a deal.

Mr Hainsworth: The bottom line is that the provision of court security to the court is an overhead for the court. Under Treasury guidelines we are obligated to include it in our costs.

Mr P. PAPALIA: It does not really matter because somewhere government is recouping some sort of money.

Ms S.F. McGURK: I want to understand a bit better the other cost item you were talking about before your discussion on security. The slide refers to other costs—security, court counselling, the District Court building costs and percentage allocation costs determined by the business area. Can you elaborate on that?

Mrs Owen: These are costs that are incurred. I refer to the District Court, for example. Lots of our costs fall into the direct-cost bucket. Other people provide services that are about the service we provide. Court counselling will have a number of counsellors for family violence services, child witness services.

Ms S.F. McGURK: Sorry for interrupting, but I understand what the costs are. What I am asking is how you allocate them, because it just reads “as determined by the business area”. Is that how much the business area used of that particular cost?

Mrs Owen: Yes, it will have a way of looking at its business and the type of work it will do and it will have a percentage that says it will do X-amount percentage for the District Court and, therefore, the cost associated with that would be allocated to the District Court.

Ms S.F. McGURK: Are those percentages available?

Mrs Owen: The workings are available. I do not have the specifics because we do as we are directed in terms of that.

Hon LJILJANNA RAVLICH: I refer to the assumptions of the cost recovery model. We are not there yet, but five points are itemised. I refer to the testing of your assumptions. Assumptions can play a big part in the robustness of the model you apply in the agency. How often and by what means do you test your assumptions?

Mrs Owen: Yes. I will jump to the civil–criminal percentage allocation on the chart. Once we have all our costs, the one that I have not mentioned is the judicial pension cost that we need to bring to account. I can give more detail on that later. If I look at the civil–criminal percentage allocation, you can say percentage allocations are all assumptions. Each year the courts look at their workload. To determine the civil–criminal split, they look at three or four groupings. Firstly is the judiciary—the judges; then judicial support; then we have the registrars and the public servants who are the registry staff. At the end of each financial year, we do what is called an apportionment model, where each of the court areas are required to have a look at that. We look at a judge’s roster for the judicial costs. A judge’s roster is exactly that. It says what work the judge has done. It includes not

only sitting times, but also thinking time, the writing of judgements time and any other activity that the judge has been involved in. That can clearly be delineated in terms of whether it is a criminal case or a civil case. For the allocation of judicial costs, we use the judge's roster that we get civil and criminal from. Then with the judicial support staff, we know that for each judge there are two support staff—an associate and an usher. We know what the judge has allocated their time to so we use that allocation for the judicial staff. For the registrar's time, we know that registrars do predominantly civil work. The majority of their work is allocated to the civil proportion. There are some criminal matters—we have a commissioner—on which they sit, so we look at their workload and we allocate that, but the majority of it is civil. The registry staff take in things from the front desk, manage the evidence, collate the files and manage the case management. Over time, we have done some analysis on that and it is generally worked out that it is a 50–50 criminal–civil split. Each year that piece of work is done by each of the courts for that allocation.

Hon LJILJANNA RAVLICH: Given that the FTE cost is generally one of the biggest costs in government agencies, and given the determination and what makes up the split in terms of percentage allocation for the judge's roster, the registrar et cetera, they are all assumptions; there is absolutely no science. There does not appear to be any hard science associated with one of the biggest cost components in the agency. Would you agree with that?

Mrs Owen: I would say that the work to do that to the level of the court work that we do, particularly in registry staff, given that the process of providing the services is often unique, it is an enormous expense of time and effort to do that in a great amount of detail. That work has not been done. There are some areas that can be contained where it is generally a standard way of doing it and it generally has the same standard costs associated with it. But that is more the exception than the rule.

Hon LJILJANNA RAVLICH: Do you agree that one of the biggest components of your costs is the time put in by senior members, whether it is judges or registrars, et cetera? They are based on assumptions rather than detailed analysis.

Ms Stampalia: As Su described earlier, though, a judge's roster is looked at, as an example. We know that judges sit in crime and civil cases. We are able to tell how much time in terms of workload is spent in those jurisdictions. Su walked through that in terms of each jurisdiction each year looking at the amount of time a judicial officer has spent in either civil or criminal. Sometimes judges sit in only civil. The information is there for us to check.

Mr P. PAPALIA: On that matter, the thing that drew our attention to your costing methodology is the recent fees increase and the justification for that being a reduction in corporate lodgements. Is that what happened? Did you determine that there was a reduction in the number of court lodgements and, therefore, you increased the fees as a consequence and that is why you are putting the fees up 13.6 per cent—or is there some other reason?

Mrs Owen: The process we go through is to look at our revenue forecasts. The last step in our process of our fees and charges review is to look at revenue for next year. There is a slide on that. I explained the process that we go through. A strategy paper is then developed and goes to the court and tribunal executive to decide how we will manage future revenue coming forward. The lower demand was definitely of concern. Also of concern was the need to, where possible, ensure that we have the revenue we need to undertake our business. Because our business has fixed costs as a large component, there is a need to maintain that base. One of the ways in which we can do that is to recommend an increase to the fees.

[10.40 am]

Mr P. PAPALIA: Is that not a tax as opposed to a fee?

Mrs Owen: I think you would have to ask a solicitor for that advice. The advice that we have received is that according to our fees they are valid within our legislation.

Mr Hainsworth: It would become a tax if we were cost recovering over 100 per cent. We are not cost recovering 100 per cent.

Mr P. PAPALIA: Let us say that hypothetically a year or two years ago there were more corporate lodgements and you could charge less per person per lodgement for the fee and still get the same amount of money. Now there are fewer corporate lodgements. Your response is to increase the cost per lodgement to recoup the same amount of money. Is that not increasing your cost recovery per person per activity without any real justification?

Mrs Owen: All of that movement did not take cost recovery up over 30—The total cost recovery of court and tribunal services is around 30 per cent. Despite the movement, at no level has it been that we have over-recovered the costs according to the legal advice we have received.

Mr Hainsworth: The point I make is that over the last six or seven years that I have been with the department, cost recovery, with the exception of some fees, has been about 20 to 30 per cent across that jurisdiction.

Mr P. PAPALIA: So as long as you stay under 100 per cent, it is not a tax.

Mrs Owen: That is our advice.

The last one of our costs is the judicial pension. It is an interesting cost. It differs every year. It can go from the nothing to an enormous amount of money. To enable us to bring to account an amount that is consistent over time, we have adopted the “Report on Government Services”, the ROGS, which is a national report released by the Productivity Commission. The commission’s accounting rules are sent to each of the states as how to collect the costs for that. Its accounting rule says that each year you will bring to account 40 per cent of the value of a judge’s salary as judicial pension. We have adopted that rule. It is a national rule and it is what we need to put into the “Report on Government Services” and that is how we allocate the judicial pension.

I explained the civil criminal percentage allocation and how we get to that. That then gives us criminal court costs and civil court costs, which takes us to our total court costs. From a revenue perspective it is a little different inasmuch our general fees are all civil. Within the accounting financial system, the general ledger, we have a general ledger account regulatory and fees and fines area of the chart of accounts and the civil fees all go to one type account number, which is 1311. All the general schedule civil fees come into that account number. We do get criminal revenue from transcripts and audio, which is why we have those two other general ledger accounts, but the accounting financial system pulls all the civil fees into one bucket.

The final step in our revenue model future year forecast it is at the exact same time—October, November. We have got only July to September of that year’s actuals to use as basis for our scenario planning for the next year or 18 months going forward. Each court area looks at their first three months’ worth of work and does an assessment or a forecast for the rest of the financial year. That gives us the current revenue we can expect for the current year we are in. We then look at the forecast for the next financial year. We are given Treasury economic forecasts, which gives us a suggested CPI. We then look at the factors that are influencing our business and the sorts of areas that we go to for help. We go to the Australian Bureau of Statistics “WA population growth” to see how that could impact on the number of court services that could be coming through. We look at the impact of policy changes that have come through—whether new courts are opening or whether there is a change to policing strategies and other policy areas. We then look at how that will impact the court area and then we look at our finalisations and lodgements and make the best sense we are able to of those. We take all those and then put forward a proposed future year revenue increase. That is the forecasting approach we go through.

Mr G.M. CASTRILLI: What other sorts of costs are you looking at?

Mrs Owen: Most of our costs are allocated by FTE. It is only those components of costs that are big enough and easily enough to recognise that are unique to a particular court that are put into that

percentage allocation field. The security contract is one of them. The businesses account for their own rent in direct costs.

We will look to the Excel model that has the specific lists. This framework has been helpful for me as a teaching tool when I have spoken to people who have not worked within the model before. The big conceptual model that we work with is to start with inputs. We agree to the assumptions, we do the calculations and we finish with outputs. For our cost recovery model, our inputs are the Office of the Auditor General audited costs from the department's finance system. This is "let's go and find as many buckets of audited costs that we can and bring them in to the base of our system." There are corporate costs, which is the Department of the Attorney General structure; the courts' non-fee-generating costs, that is the second structure. We look at the individual court costs so we get costs for the District Court, the Family Court, the Supreme Court and the State Administrative Tribunal and the fee schedule as at the time of the review. We look at the fees that are currently within the legislation and whether any more will be legislated by the time we need to consider them. We get the salary table as per the award. For the areas that we do an individual fee costing for, we go to the salary as per the award for that year. The other cost is the judicial pension and security because they are large components of costs. We know how many judges are allocated to each court and we know where the security is given. Then we go to the FTE numbers as per the budget statement. That becomes the core data that is built in and dropped in to our Excel model to work with. Our assumptions are our corporate allocations. Our corporate allocations are worked out by—It is a huge piece of work done by our corporate finance area. It is used to allocate the costs so that we can report on our key performance indicators. Whilst at a court and tribunal services level we deal with actual costs coming to us, from a key performance indicator perspective, which is effectiveness and is our time to trial indicator, and the efficiency indicator is the cost per case indicator. We need to include overheads when we look at those KPIs. That is how the corporate allocation is done. We use the percentages that are used when reporting back against our KPIs.

[10.50 am]

The CHAIR: What do you mean by key performance indicators? Do you mean the work that you expected?

Mr Hainsworth: Key performance indicators are the key performance indicators that are contained in our budget statements, for example, cost per finalisation in the Coroner's Court.

Hon LJILJANNA RAVLICH: I do not know whether there have been improvements, but it takes about three years for a case to get to trial in the Coroner's Court. You are actually lagging. I do not have that information in front of me, but over the past few years the time to trial has extended further and further. There was some improvement in the District Court.

Mrs Owen: Yes. The point to make here is that the same base data is used for all our review processes. When we are preparing our key performance indicators for the budget statements, we use corporate cost allocation percentages. When we are doing the cost recovery model for court and tribunal services, we use the same indicators. We use the same dollar costs because it is coming out of the audited financial systems. It is not about having a lot of different data sets that we pull for each purpose; it is about going back to the same data set and using that for each review.

Mr P. PAPALIA: Going to back to why we started the inquiry—this is revisiting a little bit what we have talked about already—the process of identifying the fact that there have been fewer corporate lodgements and a decision to charge more per corporate lodgement effectively to achieve the same revenue; is that a valid practice? Is it used more widely in government as a process—that is, if the workload goes down, you put up the prices? Is that what government does?

Mrs Owen: I am sorry, I cannot answer that question.

Mr Hainsworth: We would not like to comment on that as a practice of this government.

Mr P. PAPALIA: What piqued the interest of the committee and drew us to initiate an inquiry was the apparent increase in fees, which appeared to be excessive, and the justification for doing it, which was that because you were doing fewer tasks and you had to charge more per task.

Hon LJILJANNA RAVLICH: Maybe I could put that question this way: did Treasury ask the agency to deal with the issue of a reduction of lodgements by making sure revenues were retained from different sources?

Ms Stampalia: I am not aware of it asking us to do that.

Hon LJILJANNA RAVLICH: So you never got an instruction from Treasury to increase the fees to make up for the reduction of revenue from decreased lodgements?

Mrs Owen: No. The information for our fees and charges review is informed by Treasury in its costing and pricing policy. It provides a process by which we need to do the review and what costs need to be included and it provides us with economic information that needs to be taken into account. Treasury could answer what it expects of the department, but it is my understanding that it is up to the department to put forward a proposal for fee reviews, which then goes through an approval process, of which Treasury is a part.

Mr G.M. CASTRILLI: I am pretty versed with your cost recovery model framework—it is quite straightforward. What assurance can you give me that there is sustainability in how this is done and on what work is done and how efficient the work is done in the courts and all that sort of stuff? Has anybody done that? Is the efficiency of the courts reviewed on a regular basis to get the costs as trim as possible? There are certain courts that you do charge, as you said before. How can I be absolutely sure that the workings and the costs incurred on the non-fee-assessable courts are not cross-subsidised by the fee-assessable courts? I am trying to get somebody to clarify for me that somebody does an analysis and that fees paid by people are fees for fee assessable actions. Courts that do not charge or do not incur, obviously CRF and all that sort of stuff takes care of that. I want to be absolutely clear that people who are not supposed to be charged for services, whether it is for security, judicial pensions et cetera are not charged and that the fees charged are properly incurred by that particular jurisdiction. How can you convince me that that is happening? How can you convince me that the work performed by the courts is assessed every year, every two years or every five years to determine the level of work performed and so that Mackenzie does not come in to do work assessment to say that we only need 10 FTEs when we have 15 or we need 15 and we only have 10. How do you then determine the sustainability, effectiveness and efficiency of the court system?

Ms Stampalia: I can talk a little bit about the efficiency of the court system by referencing that back to a major information technology development we have had underway for a while around building case management systems for the courts. We had a number of legacy systems for more than 20 years. We knew we had to replace them because the technology was old. Government funded us to do a large part of that. As part of that project, we do business process improvement reviews. We look at a business process and look at opportunities for streamlining. We are always looking at ways to do things better. IT actually enables us to make efficiencies in that regard. That is one element. The other element is the directors of the respective business areas. Each court jurisdiction has a director who looks after it. The executive managers that report to them are always looking at opportunities to make sure that we are doing things in the best possible way. In recent times with some of the budget settings we have had to be very, very clear around the need to do that. That does happen.

Mr G.M. CASTRILLI: I am sure it does. I just need a demonstration to say that that is happening and that the figures being evaluated are right. At the moment, yes, it is happening, but without any justification. I am not looking for chapter and verse. I just want an assurance that people are getting charged for precisely what they are paying for.

The CHAIR: I saw it there somewhere that it is \$1.50 per page for a court transcript, for example. Is that over cost recovery in terms of the actual cost of that? I may go to court for one of my constituents who has done the wrong thing and ask for a transcript—which is X-number of pages—and somebody presses a button and it spits out. I am charged \$1.50 per page and the transcript is several hundred pages. The actual cost of providing that service to me as a client to the department is, I would suggest, over cost recovery. If I had not asked for that, the marginal cost of producing the document is more likely to be 10c a page rather than \$1.50 a page. Do you understand what I am trying to say?

[11.00 am]

Mrs Owen: Just for the record, the \$1.50 is per photocopy, as opposed to a transcript. A transcript is different; it has a different costing structure around it. The price per photocopy is interesting, because where does it stop? Is it the piece of paper that you get as the end product or is it the work that it actually takes to get access to people who can give you the information that is documented and written on a piece of paper? They are the assumptions that you make. The start and end points determine how the cost is actually calculated. We could say that somebody comes into the desk in the registry and they want a photocopy of a file that was dealt with by the court or a writ on a file that was dealt with by the court three years ago. That is going to take the time of the registry staff to take all the details and go and find the file. They are not thin files, generally; court matters generally come in fairly thick boxes. Depending on how old or the length of time from when that file had been closed, it could well be in storage. That would require us to issue an order to the transport company to go and get that and to bring it back. It would then mean that we would have to go through that file. We would have to find the information that they wanted. We would have to contact them to say, “We’ve got it here for you.” They would come in and we would say, “Here you are. Here’s your file. The photocopier is over there.” It is provided on a certain square metreage of land. It takes toner. It takes paper. I understand the point you are trying to make and I hope that in the way I have explained it, the time that it would take to actually do that amount of costing for all the possibilities of photocopy requests that come into court is almost cost prohibitive.

Mr Hainsworth: I think the point that Su is also making is that it is not just simply a point of putting a sheet of paper on a photocopier and photocopying it at marginal cost. There are other costs associated with it.

Mr G.M. CASTRILLI: I am assuming then, through you, Mr Chair, that the way the court works and the data collection and the data storage—it still does not happen like that, does it? Are you telling me that the Old Bailey still ties strings around everything and puts it away but they do not put it on a database so you can go and look it up on a database?

Mrs Owen: We actually have a database. The investment in dollars in improving our systems is leading to more efficient ways of doing our business. We are getting there, but all of that takes money. The thing about court matters is that there are lots of people who have lots of interests and they are not all technologically enabled. Even if we do offer e-lodgement as a service, which is a way that we can build efficiencies, it is up to the end court users to choose to use it that way. Until we get to that point where they are all making that choice, we have to provide them with a place where they can come in and make their photocopy and give them access to their information.

The CHAIR: In terms of the policy, for want of a better way of working out the costings, the impression I have got from this presentation is that basically you look at the whole court operating costs and to divide it up into all the little boxes is simply not a practical thing in a court type of setting. Is that what you are saying to us?

Mrs Owen: We can do it at a court level through the allocation of overheads and by the split of criminal and civil.

The CHAIR: But not into the photocopying and all these little things? That is too difficult to break that down. Is that what you saying?

Mr Hainsworth: It is, and the point we would make is that even if we were to attempt to do that, the level of assumption that we would make to bring it down further and further, by the time we have gone through three or four levels of assumption to get to your photocopying price, the inaccuracy of that would mean that we still could not tell you whether it was over cost recovery or not. It simply just picks up the assumption and the inaccuracy contained in it.

Hon LJILJANNA RAVLICH: Did the agency have a value-for-money audit in the last few years?

Ms Stampalia: The Auditor General has done —

Hon LJILJANNA RAVLICH: No, a value-for-money audit, which I think was done by PricewaterhouseCoopers.

Ms Stampalia: I am not aware of a value-for-money audit. Sometimes they might have a particular title of audit but I am not aware of a value-for-money audit.

Hon LJILJANNA RAVLICH: There was a series of value-for-money audits done across peak government agencies—health, education and many others had them. You do not seem to be sure or unsure.

Ms Stampalia: I cannot recall that we had one.

Hon LJILJANNA RAVLICH: I am wondering whether you might take that on notice and provide the information. If you have had that value for money audit, let the committee know and provide the report to the committee.

[Supplementary Information No 1.]

Mr G.M. CASTRILLI: I just want to clarify way back when you were talking about the cost structures. You are telling me that each individual court, like a regional court—like a Bunbury, or each individual court—you can determine on the exact costs what they are, right; so, for instance, the wages of people, security allocated to it, stationery costs, telephones going into the court, all that sort of stuff, right—the actual real costs. Then you allocate from a corporate level, if you like, costs to each, depending on the service or whatever. Therefore, at each individual level you can determine what is the cost of photocopying, what is the cost of paper, what is the cost of electricity, what is the cost of wages—you know, all that sort of stuff—at that particular court.

Mrs Owen: The cost of the photocopier, not the photocopying.

Mr Hainsworth: But that is in the FTE.

Mr G.M. CASTRILLI: Okay. So the cost of photocopier, plus the raw material of paper and toners and everything.

Mrs Owen: Yes, we collect those as materials purchased.

Mr G.M. CASTRILLI: Right; then the actual cost of photocopying—does that not get allocated on the staff? If the documents are held at the regional level, surely the staff time is already costed at the regional level, so there will not be any more costs at the regional level? If the documents are held at a corporate level, then there is a different allocation, is there not?

Mrs Owen: It is as well as where the documents are held, there is also the steps in the process that you need to take to get the information, and that is very different for each customer. So, as I say, the types of costs that we collect in our direct costs are the materials purchased; our FTE labour hours; our superannuation expense; our interest charged, if that is appropriate; our rent.

Mr G.M. CASTRILLI: So there is a real solid cost.

Mrs Owen: It is the tangible dollars.

Mr G.M. CASTRILLI: At each individual level and at each individual location.

Mrs Owen: Yes.

Mr G.M. CASTRILLI: Plus a bit coming out. Okay; thank you.

Mrs Owen: Yes.

The CHAIR: Where each employee actually spends their time to actually allocate that time to individual activities is exceedingly difficult to do in the court system, other than it is in that court and that is about as far as you can go?

Mrs Owen: Yes

The CHAIR: Fair enough.

Mr Hainsworth: Other than a broad split between criminal and civil, but to break it down into the individual components would be incredibly difficult.

Mr G.M. CASTRILLI: Thanks.

Mr P. PAPALIA: In the budget papers will there be a breakdown of those individual components of your court costings for 12 months—the financial year? Does it get down to other costs including —

Mr Hainsworth: No, what you get in the budget papers is a sort of a line cost for court and tribunal services, so we have got our output areas. What we do have is our efficiency indicators, which are things like cost finalisation.

Mr P. PAPALIA: And you have cost recovery in the budget, do you not, you recoup all the revenue that you generate?

Mr Hainsworth: It does have, though, revenue that we generate, contained, obviously, within our budget papers.

Mrs Owen: It is very broad

Ms Stampalia: I think when Su gets to the Excel spreadsheet, though, for the District Court, you will see what you are asking.

Mr P. PAPALIA: We have got to get to that.

The CHAIR: We had better get to that, had we not?

Mrs Owen: So from the model, we have got to start with the assumptions. We have done those. Then we will do the calculation. Now the calculations are just by Excel formula. That gives the result of the total District Court costs. We finish with our outputs, our summary of court cost recovery—and there are some individual fees that we do do some overarching analysis with. So that is our outputs; I will get to the model now.

[11.10 am]

So this is actually the spreadsheet model that we use. What I will do is take you to our direct costs. So the first bucket that we have on your slide, on your handout—shows my age—District Court —

Ms S.F. McGURK: No, I think we have only got —

Mrs Owen: I meant in terms of the overall model of cost allocation. On page 9, just the top cost bucket, this “direct costs”. You will see here, these are the account codes as per our general ledger account, which is the financial system for the department. This is the description. This is the total actual expenditure for the financial year. So we have salaries, super, clothing, medical, travel and accommodation, training, computer services, legal costs, professional procurement services, audiovisual books, magazines, subscriptions—all of the costs that are associated come in by invoice. We have suppliers that provide them and they are collected according to the department’s chart of accounts.

Mr P. PAPALIA: So is there a court security line?

Hon MARK LEWIS: Yes, there was. I saw that.

Mr P. PAPALIA: No, there was security bins.

Hon MARK LEWIS: That was security, was it?

Mrs Owen: Because this is the District Court, District Court security services are provided by, as part of the District Court building contract, and so District Court operates as a court and then it has its own performance centre for the District Court building, and that is where the services that are contracted are collected, and that is different to this one. That is what we do by allocation, and I do have that here. So, not in the District Court performance centre do we collect those.

So that is the direct costs. Then if we are looking at the court overheads—for the District Court there are a number of roles, or positions, in the court that are not directly related to the provision of finding a service; so the administrative roles in the court. So the leadership roles of chief judge, principal registrar, executive manager—generally the management coordination roles—are brought in as an overhead if we are looking at doing some individual fee costing; so we need to know which of those roles need to be allocated.

Hon MARK LEWIS: Just one thing, the overheads are all 40 per cent, are they? Are they all 40 per cent?

Mrs Owen: The judicial pension is 40 per cent.

These are the sheriff and bailiff costs. This is the CSCS contract, which is court security and custodial services. It is an allocation of the costs as we collect it with ROGS—with the “Report on Government Services”. So, once again, within that “Report on Government Services” that the Productivity Commission publishes, they have accounting rules for the provision of security services to courts across the nation. So the way that we allocate security costs within our cost-recovery model is that we go back to our ROGS information that we provided to the productivity report, and we say, “Great; that is what we have given to them”, and we pull it in here and we allocate it across the courts, because we also in our “Report on Government Services” collect that by court in that report as well. So that is where the security costs are allocated. Then we have District Court building overheads. Again, there are a number of services that are covered under the District Court building contract. It includes cleaning, the provision of transcription services, security services and AV services—they are all under the District Court building. This is unique. This is not in any of the other courts. This is specific to the financing decision that was made by the government around how we were going to do the District Court. So this is the allocation of those costs.

Mr G.M. CASTRILLI: What about allocations like depreciation?

Mrs Owen: Depreciation is actually dealt with corporately. It is not dealt with at a court-based level. Each year we get a journal —

Mr G.M. CASTRILLI: In things like the District Court—in areas where fees are chargeable, do you then allocate a percentage of depreciation to those particular centres?

Mrs Owen: Our depreciation comes in through a different performance centre, where it comes into the District Court, but not into this performance centre, and it is allocated by corporate costs through here. So perhaps if we can hold that and I will have a look when we get into the corporate allocation of the costs.

Mr G.M. CASTRILLI: Perhaps we should go through it line item by line item!

Mrs Owen: Yes, and it will jump out at me!

Mr G.M. CASTRILLI: That is all right!

Mrs Owen: Then there are the court overheads. These are our corporate overheads. So in our group here, these are all of the corporate groups that provide at some time services to the department. Here, this is the total actual expenditure for the year, and this is the percentage that is allocated to the courts. That is done from a piece of work that was done for the KPIs. If I come out to my core data—the inputs that I have put in—here is our corporate overheads. You will see the same sort of numbers and the same sort of descriptions. Here are the actual costs for that description for that year—that is a direct report out of our financial system—and here is our percentage allocations. So down here we have got all of the department’s corporate groups, and all across here is the areas of the department that those corporate groups provide work to. So the work makes sure that 100 per cent of the cost of these corporate groups is allocated across the department; and courts is here. So this is where you can see—if I go up the top here—that for the ministerial liaison unit, which is PC1001, court and tribunal services gets 85.6 per cent allocation of their costs, and that is probably because of the number of ministerials—they have used the number of ministerials as a basis to do their assessment. So each of those groups would look and see what their workload is and they would advise corporate finance. That is how that group is created. If I can come back to here, which is the cost of District Court and the overheads, where I started, you will see here that for the ministerial liaison unit, that is their total yearly expense. We have allocated 85.6 per cent of that. That attributes to \$145 000, so courts need to cover that amount. There is an annual allocation. You can see from just a formulaic equation—this is not hard numbered; this is the formula that Excel does, so this is the calculation component. What that will say is “Go and look at the corporate overheads tab”, and B11—I will not keep on with this; I just want to give you one example—says “Go and look up that number”, and then “Go and find 1001 in this sheet”, and bring that into the year’s cost for that area.

Hon LJILJANNA RAVLICH: In terms of your assumptions, it would appear from this document here that every financial year you review your assumptions and they may change from one year to the next.

Mrs Owen: Yes, we do.

Hon LJILJANNA RAVLICH: I am just wondering: how does it make it comparable then to compare the analysis, if you like, of the financials from one year to the next given that every year you change your assumptions or you change the assumptions underlying the model?

[11.20 am]

Mrs Owen: If it does not change very much, it means that variation reporting is small. If it does result in a significant reallocation of workload type between civil and criminal, it means that when we are reporting variation to target over time, we bring to account the reason for that variation.

Mr Hainsworth: I think if you actually look in our budget statement from about two years ago, we did a large amount of work on defining what was the difference between criminal and civil, and that was actually reflected in our key performance indicators in our budget statements, and we did get a large variation, and that was because we actually effectively changed our modelling around civil–criminal. We have done it in an open and transparent way.

Ms Stampalia: I think the “Report on Government Services” highlights that as well between the civil and criminal sphere.

Mrs Owen: The other thing about preparing the work for the “Report on Government Services” is that through the national court bodies—they are always looking at how each of the states actually provides the data and looking at the individual counting rules for each specific category of costs, and they are looking to see whether there is any standardisation that can occur out of that. So, as part of our annual fee review, because we also provide the report on government services data, we are saying, “Is there more of that data that we can actually use as the valid way in which we allocate our costs here?” And because we have done some significant improvements in the way that we

provide the ROGS data in the last couple of years, we have been able to build that into this model as well.

Hon LJILJANNA RAVLICH: Surely at a federal level when the Attorneys General get together, they would want to compare systems across the nation and the cost of delivering services. Are they working towards some national model which would provide better comparative data, if you like? That must be an objective.

Mr Hainsworth: That is, in effect, the “Report on Government Services”, the ROGS. So, that actually allows a jurisdictional comparison of the efficiency of each of the courts of each of the jurisdictions both on a gross expenditure and a net expenditure basis. If you read the fine print, though, of ROGS, what it does say is that you cannot necessarily compare jurisdiction with jurisdiction because the quality of the data between jurisdictions is not necessarily the same. I think Western Australia would actually argue in for our court system, given that we have been best practice with our accounting through the Office of the Auditor General, that our provision of data to ROGS would be one of the better jurisdictions.

Mr G.M. CASTRILLI: Thanks very much for the overview. It has really sort of cleared a few things in my mind. Obviously, you re-look at all the assumptions every year and you look at every cost centre. Generally speaking, on population, the activity should not vary from location to location, but if it does, it then gives you the scope to amend, I suppose, or to reflect, if you look at each individual cost centre, that change. So, yes, thanks for that.

The CHAIR: Anything further you wanted to show us?

Mrs Owen: There is more to show, but I have spoken to most of it, so if you would prefer to just —

The CHAIR: We will move on.

Mrs Owen: Continue or finish, sorry?

The CHAIR: Do you want to wrap it up in the next five minutes?

Mr Hainsworth: I think we will just call a close to our demonstration. I think what Ms Owen has presented shows that we do have a robust framework. That robust framework, I would say, stems from our chart of accounts. It also stems from the framework of ROGS. In terms of breaking down our costs, yes, we do rely on assumptions, but we test those on an annual basis. In terms of one of the major components of our cost, which is, basically, judicial time, we do look at their worksheets, so we do have a good indication of whether we are, basically, splitting our criminal versus civil. So, it is not an arbitrary figure. We go away and look at the best available data we have got to make that. In terms of the sort of public servants that are operating within our court system, we have done a little bit of work around that. It works out on a 50–50 basis. The point is, though, as I say, it is a robust model. It is quite complex and quite sophisticated in what it actually does and I think, from our perspective, basically it should give you a degree of comfort that we are basically doing the right thing, and I think that is why you will find that Treasury officers basically came to the conclusion that it was not only consistent with their guidelines, but was basically fit for purpose. The point I would also make—and I would agree with I guess the summation made by the chair—is that for us to try to get it down to a lower level is just not feasible or possible.

Mr G.M. CASTRILLI: It is feasible or possible, but the cost of it is extraordinary.

Mr Hainsworth: I would argue perhaps not feasible and not possible because the level of assumption that basically you start to apply as you get lower down renders the answer that you get as something having a wide, if you like, variation. So, it would be a cost plus or minus 200 or 300 per cent, which would not give you the level of comfort that we were not over cost recovery.

The CHAIR: Thank you very much for your contribution and presentations and answers today. I have not got the formal document in front of me, but you will be forwarded a copy of the Hansard transcript and you will be invited to make any corrections to that. If you do not return it within

seven days of receiving it, then it is assumed that you are happy with what is in there. So, once you do get it, if you can make sure you return it with any corrections, that would be very much appreciated. Thank you for your time.

Hearing concluded at 11.26 am